

VENABLE LLP
DAVID E. FINK (BAR NO. 169212)
defink@venable.com
2049 Century Park East, Suite 2300
Los Angeles, CA 90067
Telephone: 310.229.9900
Facsimile: 310.229.9901

VENABLE LLP
MICHAEL D. JOBLOVE (*pro hac vice forthcoming*)
MDJoblove@venable.com
BRETT M. HALSEY (*pro hac vice forthcoming*)
BMHalsey@venable.com
100 Southeast Second Street, Suite 4400
Miami, FL 33131
Telephone: (305) 349-2300
Facsimile: (305) 349.2310

Attorneys for Plaintiff
TRG CP, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TRG CP, LLC

Plaintiff,

v.

MARTELL CAPITAL GROUP, LLC D/B/A
IRONGATE; DAVID WALLER; MITCH
LAUFER; and Does 1-10,

Defendants.

Case No. 2:23-cv-00341

**COMPLAINT FOR DAMAGES AND
OTHER RELIEF BASED ON CLAIMS
FOR:**

- 1. INTENTIONAL FRAUD;**
- 2. PROMISSORY FRAUD;**
- 3. FRAUDULENT CONCEALMENT;**
- 4. CONSTRUCTIVE FRAUD;**
- 5. EXTORTION; AND**
- 6. ATTEMPTED EXTORTION**

NATURE OF ACTION

1
2 1. Plaintiff TRG CP, LLC (“TRG CP” or “Plaintiff”), by and through its
3 undersigned attorneys, hereby brings claims against Defendants, Martell Capital
4 Group, LLC d/b/a Irongate (“IRONGATE”), David Waller (“Waller”), Mitch Laufer
5 (“Laufer”), and Does 1-50 (collectively “Defendants”) as follows:

6 2. This Complaint alleges, inter alia, violations of Cal. Civ. Code Sections
7 1572 and 1573 (actual fraud, promissory fraud, and constructive fraud); common
8 law extortion; and attempted extortion by threatening letter, all arising out of a
9 scheme by Defendants to wrongfully and unlawfully obtain money, assets and
10 property from Plaintiff based on false representations, extortion, and unfair business
11 practices.

12 3. Specifically, Defendants fraudulently induced and wrongfully
13 threatened Plaintiff, both verbally and in writing, to force Plaintiffs to pay monies to
14 Defendants and/or their Mexican affiliates, sign purported agreements, and give up
15 other valuable rights and property to which Defendants are not entitled. As a result
16 of Defendants’ false representations, extortion, concealment and other wrongful
17 conduct, Plaintiff has suffered substantial damages.

THE PARTIES

18
19 4. Plaintiff TRG CP, LLC is a Florida limited liability company with its
20 principal place of business in Florida.

21 5. Defendant Martell Capital Group, LLC d/b/a Irongate is a Delaware
22 limited liability company with its principal place of business located at 10877
23 Wilshire Boulevard, Suite 2300, Los Angeles, California 90024. IRONGATE is
24 registered to do business in California and has a registered agent in California.

25 6. Defendant David Waller is an individual who resides in California and
26 is employed by IRONGATE at its principal place of business in Los Angeles,
27 California.
28

1 7. Defendant Mitch Laufer is an individual who resides in California and
2 is employed by IRONGATE at its principal place of business in Los Angeles,
3 California.

4 8. Plaintiff is informed and believes, and based thereon alleges, that the
5 fictitiously named Defendants captioned hereinabove as Does 1 through 10,
6 inclusive, and each of them (hereinafter "DOE(S)") were in some manner
7 responsible or legally liable for the actions, damages, events, transactions and
8 circumstances alleged herein. The true names and capacities of such fictitiously
9 named defendants, whether individual, corporate, associate, or otherwise are
10 presently unknown to Plaintiff, and Plaintiff will amend this Complaint to assert the
11 true names and capacities of such fictitiously named Defendants when the same have
12 been ascertained. For convenience, each reference herein to a named Defendant or
13 to Defendants shall also refer to the Doe Defendants and each of them.

14 9. At all relevant times, each Defendant was and is the agent of each of
15 the remaining Defendant, and in doing the acts alleged herein, was acting within the
16 course and scope of such agency. Each Defendant ratified and/or authorized the
17 wrongful acts of each of the other Defendants.

18 10. In committing the wrongful acts alleged herein, the Defendants have
19 pursued, or joined in the pursuit of, a common scheme, pattern or course of conduct,
20 and have acted in concert with and conspired with one another in furtherance of the
21 improper acts and transactions that are the subject of this Complaint.

22 11. Each of the Defendants aided, abetted, and rendered substantial
23 assistance in the wrongs complained of herein. In taking such actions to substantially
24 assist the commission of the wrongdoing complained of herein, each Defendant
25 acted with knowledge of the primary wrongdoing, substantially assisted in the
26 accomplishment of that wrongdoing, and was aware of his, her or its overall
27 contribution to and furtherance of the wrongdoing. Thus, Defendants are jointly and
28

1 severally liable for the wrongful conduct set forth herein because they are aiding and
2 abetting each other and/or conspired to commit such wrongful conduct.

3 **JURISDICTION AND VENUE**

4 12. This Court has diversity jurisdiction over the parties pursuant to 28
5 U.S.C. §1332(a). No Defendant is a citizen of the same state as Plaintiff and the
6 amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

7 13. Venue in this judicial district is proper pursuant to 28 U.S.C. § 1391(c)
8 because IRONGATE is a corporation that is deemed to reside in any judicial district
9 where its contacts would be sufficient to subject it to personal jurisdiction,
10 IRONGATE's principal place of business is located within this District, and Waller
11 and Laufer reside in this District.

12 14. This Court has personal jurisdiction over each Defendant because they
13 reside here or regularly conduct business here, and many of the wrongs complained
14 of occurred in California.

15 **FACTS**

16 15. Plaintiff is informed and believes that IRONGATE was formed in or
17 about April of 2010 to serve as a holding company for certain of Jason Grosfeld's
18 real estate investments, ventures, and properties. Jason Grosfeld is IRONGATE'S
19 Chairman and CEO.

20 16. Jason Grosfeld is the son of James Grosfeld, a director of BlackRock,
21 Inc. and formerly the Chairman and CEO of Pulte Homes, Inc., a well-known home
22 builder and financing company in the United States.

23 17. IRONGATE holds itself out as an entrepreneurial full-service real
24 estate firm specializing in the development of luxury branded residential and resort
25 communities in California, Colorado, Hawaii, and Mexico.

26 18. Waller is the Managing Director of Development for IRONGATE.

27 19. Laufer is the Director of Legal for IRONGATE.
28

20. IRONGATE owns and operates a luxury resort development in Las Cabos, Mexico known as Costa Palmas. The Costa Palmas Beach Club opened in September of 2017, and in October 2019, IRONGATE, with the Four Seasons, opened a five-star Four Seasons Hotel and a residential development known as the Four Seasons Residences at Costa Palmas.

21. As part of IRONGATE's Costa Palmas development, IRONGATE embarked upon a robust marketing campaign for its residential development in Costa Palmas, which targeted guests of the Four Seasons and others interested in investing in real estate or living in the lucrative Costa Palmas community. IRONGATE, by and through its own representatives, as well as those employed by or working with Four Seasons, marketed and sold real estate lots, design and construction services for custom homes and builders spec homes in Costa Palmas.

Defendants Fraudulently Induce Plaintiff to Purchase a \$4.25 Million Lot in Costa Palmas

22. Plaintiff's representative visited the Costa Palmas resort in early 2020 and met with Emma Barnes-Webb, a sales agent for IRONGATE or its affiliates at Costa Palmas.

23. Plaintiff knew that Costa Palmas was an IRONGATE project and was impressed with the reputations and track records of the Grosfelds, as well as the team at IRONGATE, in connection with other developments that IRONGATE had funded, developed, and operated.

24. Ms. Barnes-Webb showed Plaintiff several residential lots for sale by IRONGATE in the Costa Palmas development. Ms. Barnes-Webb represented to Plaintiff at that time that if Plaintiff purchased a residential lot in Costa Palmas, Plaintiff would be required to use IRONGATE's design and construction team for all aspects of construction of any home there.

///

///

1 25. One of the lots marketed by IRONGATE to Plaintiff in Costa Palmas
2 was an ocean view villa lot identified as Lot OVV25 (the “Lot”), which listed a sale
3 price of \$6 million.

4 26. Plaintiff advised Ms. Barnes-Webb that Plaintiff was interested in
5 purchasing the Lot and building a home on that Lot comparable to other homes being
6 developed by IRONGATE in Costa Palmas, which Plaintiff would use both for
7 personal use and for income producing property by and through a vacation/rental
8 market program operated by IRONGATE and Four Seasons at Costa Palmas. Before
9 Plaintiff expended millions of dollars on land, however, Plaintiff wanted to make
10 sure that Plaintiff fully understood and approved the costs for building a home.

11 27. Accordingly, in early March 2020, Ms. Barnes-Webb placed Plaintiff
12 in contact with Waller to discuss the design and construction of a home for Plaintiff
13 on the Lot.

14 28. Between March 10, 2020 and March 31, 2020, Plaintiff had several
15 communications with Waller and others at IRONGATE by way of telephone calls,
16 text messages, emails, and in person meetings at IRONGATE’s offices in Los
17 Angeles. The parties discussed the type and size of home that Plaintiff wanted to
18 build on the Lot, IRONGATE’s requirements for design and construction, the time
19 frame for completion of design and construction, and IRONGATE’s estimates
20 regarding total costs. Plaintiff advised IRONGATE that Plaintiff’s budget for
21 construction was between \$3 million and \$4 million, and that Plaintiff wanted
22 assurances that the home would be substantially completed within the next eighteen
23 (18) months.

24 29. Waller represented to Plaintiff in late March 2020 that the time was
25 perfect for Plaintiff to purchase the Lot and embark on design and construction of a
26 home in Costa Palmas because IRONGATE’S projects had slowed down,
27 IRONGATE had no other lot sales in that portion of Costa Palmas in process,
28 IRONGATE was not currently designing or constructing any other homes in that

1 phase of the development, and IRONGATE had ample materials and labor to
2 complete construction within Plaintiff's timeframe.

3 30. Waller further represented to Plaintiff, both in person and via emails,
4 that if Plaintiff bought the Lot, IRONGATE could and would devote its full attention
5 and resources to designing and constructing Plaintiff's home, and that based upon
6 the preliminary plans IRONGATE could and would complete construction of
7 Plaintiff's home by September of 2021. Waller also represented to and promised
8 Plaintiff that IRONGATE would give Plaintiff the option of a fixed construction
9 price, which would be determined and agreed based upon hard bids that IRONGATE
10 obtained after final design was completed and approved.

11 31. Based upon these representations, Plaintiff executed a construction
12 contract on April 1, 2020, and purchased the Lot on or about April 2, 2020 for
13 \$4,250,000.

14 **Defendants Falsely Represent Construction will be Complete by**
15 **2021 at a Fixed Price**

16 32. IRONGATE's design work for Plaintiff's home was completed on or
17 about October 16, 2020, and Plaintiff formally signed off on the final design on
18 November 9, 2020.

19 33. On or about December 2, 2020, Mr. Waller sent Plaintiff a total
20 construction budget of \$5,974,809, which Mr. Waller represented was based on
21 "hard bids" that IRONGATE had obtained for all aspects of construction, including
22 the high-end finishes, flooring, masonry, windows, equipment, appliances, and
23 fixtures that Plaintiff had selected during design. Mr. Waller told Plaintiff that this
24 was a maximum budget, IRONGATE was negotiating for better pricing that would
25 reduce Plaintiff's construction costs by 5% to 8%, and construction of the home
26 would be completed by November 2021. Mr. Waller further represented to Plaintiff
27 that IRONGATE's construction activities were "open book" and that IRONGATE
28

1 would not perform work or incur costs without Plaintiff's prior knowledge and
2 consent.

3 34. IRONGATE would not begin construction of Plaintiff's home until
4 Plaintiff approved the final budget. On or about December 2, 2020, Plaintiff
5 approved the \$5,974,089 construction budget, which Defendants represented was
6 the fixed cost of construction.

7 35. IRONGATE began construction of Plaintiff's home in or about
8 December 2020, but almost immediately fell behind schedule, and Plaintiff
9 discovered that IRONGATE'S promises and representations were false, and that
10 Waller and others at IRONGATE had concealed material information from Plaintiff,
11 including but not limited to:

12 a. Contrary to Waller's representations, IRONGATE was actively
13 selling other lots within this phase of the Costa Palmas development;

14 b. Contrary to Waller's representations, IRONGATE did not have
15 sufficient materials and labor to timely construct Plaintiff's home;

16 c. Contrary to Waller's representations, IRONGATE diverted its
17 resources, materials and labor to the design and construction of other homes in Costa
18 Palmas for IRONGATE'S profit, while Plaintiff's home remained stagnant;

19 d. Contrary to Waller's representations, IRONGATE had no
20 intention of completing construction of Plaintiff's home by September 21, 2021 at a
21 fixed construction price of \$5,974,089 as represented.

22 36. Beginning in or about April 2021, Plaintiff repeatedly expressed
23 concerns and frustrations about IRONGATE's lies and false promises to Waller and
24 Jason Grosfeld. Between April 2021 and March 2022, Waller continued to make
25 false representations to Plaintiff about the timing and construction of Plaintiff's
26 home, including but not limited to:

27 a. In April 2021, Waller falsely represented that IRONGATE was
28 assigning new personnel to Plaintiff's home to speed up construction;

1 b. In May 2021, Waller falsely represented that Plaintiff's home
2 would be substantially completed no later than March 2022;

3 c. In August 2021, Waller falsely assured Plaintiff that
4 IRONGATE was making construction of Plaintiff's home a priority;

5 d. On December 22, 2021, when Plaintiff noted that the
6 superstructure of the home still was not finished, Waller falsely represented that
7 the superstructure would be completed by the end of 2021; and

8 e. On March 10, 2022, Waller falsely represented that the
9 superstructure of the home would be completed by March 31, 2022, and that
10 substantial completion would occur by September 2022.

11 **Defendants Extort Property from Plaintiff and Fraudulently**
12 **Induce Plaintiff to Sign Away Important Rights**

13 37. In March 2022, contrary to his prior representations, Waller sent a new
14 construction budget to Plaintiff showing that IRONGATE expected to receive total
15 construction costs from Plaintiff in the amount of \$6,663,125 rather than the
16 December 2020 fixed price as represented.

17 38. At that time, Plaintiff had already spent almost \$4 million toward
18 design and construction of Plaintiff's home, which was still only at the
19 superstructure stage.

20 39. Plaintiff objected to IRONGATE's increased construction budget and
21 demanded that IRONGATE complete construction of Plaintiff's home, which was
22 by then at least a year behind schedule. In April 2022, when IRONGATE refused to
23 honor its representation that Plaintiff's construction costs were fixed, or to work on
24 Plaintiff's home, Plaintiff was left with no choice but to cause its counsel to send a
25 demand letter to Defendants, along with a draft lawsuit against IRONGATE for
26 damages that Plaintiff had incurred as a result of IRONGATE's wrongful conduct.

27 40. In May of 2022, even though no work had been done on Plaintiff's
28 home since March, Waller sent yet another construction budget to Plaintiff, this time

1 with total development costs of approximately \$7.3 million. IRONGATE tried to
2 strong arm Plaintiff into signing such a contract by claiming that Plaintiff's
3 membership in the Beach Club at Costa Palmas, which was purchased in full with
4 the Lot, would be revoked if the parties did not resolve their dispute.

5 41. Beginning in early May 2022 and continuing through July 2022, Waller
6 and Laufer repeatedly told Plaintiff, through Plaintiff's representative, Amit
7 Raizada, and Plaintiff's counsel, Linda McFee, that IRONGATE would not perform
8 any more work on Plaintiff's home, which was just a shell that was open to the
9 elements and unprotected from deterioration and dilapidation from weather, wind
10 and other adverse conditions, unless and until Plaintiff signed an Estoppel Certificate
11 by which Plaintiff expressly: (a) agreed that the construction costs were *not* fixed,
12 despite Waller's previous, repeated representations otherwise; (b) promised to pay
13 IRONGATE's construction costs pursuant to the new budget; (c) waived and
14 released all rights to sue IRONGATE in the United States, and (d) waived and
15 released all claims under the Racketeering Influenced and Corrupt Organizations
16 Act. On June 27, 2022, Laufer sent an email to Ms. McFee and Mr. Raizada with
17 language that IRONGATE required to be included in Plaintiff's Estoppel Certificate
18 and confirming that IRONGATE would not continue construction on Plaintiff's
19 home without the signed Estoppel Certificate, stating: "Hopefully we can move
20 beyond this last point and on to completion of your project."

21 42. Defendants attached to the Estoppel Certificate a construction budget
22 showing total actual construction costs for Plaintiff's home of \$7,217,515. At that
23 time, Defendants represented to Plaintiff, through Mr. Raizada and Ms. McFee, that
24 the construction budget attached to the Estoppel Certificate contained the current
25 costs to complete construction of Plaintiff's home, that IRONGATE would restart
26 construction immediately and take appropriate measures to protect Plaintiff's
27 property from damage once the Estoppel Certificate was signed, and that
28 construction would be completed by the end of 2022.

1 43. On July 7, 2022, based upon these representations, as a result of
2 coercion by Defendants and under the substantial duress created by Defendants'
3 threat to allow Plaintiff's home to deteriorate and to damage or impair the value of
4 the Lot for which Plaintiff had already spent millions of dollars, Plaintiff signed the
5 Estoppel Certificate.

6 44. By signing the Estoppel Certificate, Plaintiff ostensibly gave up its right
7 to claim the construction costs were fixed at \$5,974,089 and obligated itself to pay
8 \$7,217,515. Plaintiff also was forced to give up valuable property rights and assets,
9 including RICO claims and the right to sue IRONGATE and its affiliates in the
10 United States.

11 45. Plaintiff thereafter learned that Defendants' material representations
12 that induced Plaintiff to sign the Estoppel Certificate were also false:

13 a. Barely more than one month after securing Plaintiff's Estoppel
14 Certificate, on August 24, 2022, Waller sent an email to Plaintiff stating that total
15 construction costs now exceeded \$10 million and offering to enter into yet another
16 construction contract for \$10.5 million, with options to move forward with
17 construction;

18 b. On October 7, 2022, Waller sent Plaintiff an updated
19 construction budget with a total of \$10,781,082 in construction costs (an increase of
20 \$3.5 million from the budget attached to the Estoppel Certificate) and a promissory
21 note for a construction draw allocating monies for certain line items in the new
22 budget;

23 c. On October 17, 2022, in response to Plaintiff's shock over
24 IRONGATE's demand for \$3 million more in alleged "construction costs," Waller
25 admitted that IRONGATE had hired a new contractor and had included new
26 contingencies in the budget that Plaintiff had not approved;

27 d. On November 7, 2022, Waller sent an email to Plaintiff admitting
28 that the construction budget Defendants attached to the Estoppel Certificate in July

2022 was false because it used 2020-2021 numbers rather than current numbers. In other words, Waller admitted that the “new” budget Plaintiff was forced to approve through the Estoppel Certificate did not reflect Defendants’ actual estimated costs to complete construction;

e. Contrary to Defendants’ promises and representations, no work has been performed on Plaintiff’s home since July 7, 2022, even though Plaintiff signed the Estoppel Certificate.

46. Once again and despite having already forced Plaintiff’s concessions in the Estoppel Certificate, IRONGATE attempted to extort additional monies from Plaintiff with threats not to complete construction of Plaintiff’s home and let the unfinished home deteriorate in the elements, thereby decreasing or destroying the value of Plaintiff’s property. On October 19, 2022, Waller sent Plaintiff an email stating that no work would be performed on Plaintiff’s home unless Plaintiff accepted the new budget and signed the promissory note; and on November 7, 2022, Waller sent another email advising that construction of Plaintiff’s home would be on hold until Plaintiff executes the promissory note for the recent draw request.

47. Defendants’ representations in the Estoppel Certificate and Defendants’ representations to induce Plaintiff to sign the Estoppel Certificate were false. Defendants knew that they were false or that Defendants had no reasonable basis to believe that they were true. In any event, Defendants had no intention of performing their promises when these statements were made.

48. Since forcing Plaintiff to sign the Estoppel Certificate on July 7, 2022, IRONGATE has not done any more work on the home or taken any precautions to protect Plaintiff’s property from decline. Plaintiff has paid more than \$4 million for design and construction of Plaintiff’s home, which is nowhere near complete almost three years after Plaintiff purchased the Lot.

49. As a direct and proximate result of Defendants’ wrongful conduct, Plaintiff has been substantially injured, including without limitation the following:

1 a. The difference between the actual costs to complete construction
2 of the home and the \$7.3 million that Defendants falsely represented to Plaintiff in
3 the July 7, 2022 Estoppel Certificate was the total construction costs, which is the
4 benefit of Plaintiff's bargain;

5 b. Plaintiff has paid more than \$110,000 in HOA fees for Costa
6 Palmas for a home that is nowhere near completion and which has never been used;

7 c. Plaintiff has paid more than \$75,000 in storage fees, and
8 continues to incur additional such fees, for furniture, fixtures, and other items that
9 have been ordered and delivered, but that cannot be installed because construction
10 was not completed by the end of 2022; and

11 d. Plaintiff's home, and certain materials for which Plaintiff has
12 already paid, have been left unprotected from adverse conditions and the elements,
13 causing such materials to deteriorate and otherwise suffer damage.

14 **FIRST CAUSE OF ACTION**

15 **(Fraudulent Misrepresentation)**

16 50. Plaintiff incorporates the allegations contained in paragraphs 1
17 through 49 above, as though fully set forth herein.

18 51. Between May 2022 and July 2022, IRONGATE, by and through
19 Waller and Laufer made false representations to Plaintiff, through Mr. Raizada and
20 Ms. McFee, as follows:.

21 a. Defendants attached to the Estoppel Certificate a construction budget
22 showing total construction costs for Plaintiff's home of \$7,217,515;

23 b. Defendants represented that this construction budget stated the current
24 costs to complete construction of Plaintiff's home;

25 c. Defendants represented that IRONGATE would restart construction
26 immediately and take appropriate measures to protect Plaintiff's
27 property from damage once the Estoppel Certificate was signed; and
28

1 d. Defendants represented that construction of Plaintiff's home would be
2 completed by the end of 2022.

3 52. Those representations were material to Plaintiff's decision to sign the
4 Estoppel Certificate and to agree to pay additional monies for construction, give up
5 substantial rights, including Plaintiff's claim that the construction price was fixed as
6 represented, and forgo, release or waive material rights and causes of action.

7 53. Those representations were false.

8 54. Defendants knew that these representations were false when they were
9 made, and Defendants made the representations with the intent to defraud and
10 deceive Plaintiff and with the intent to induce Plaintiff to rely on them by signing
11 the Estoppel Certificate and making the concessions and payments required therein.

12 55. Plaintiff, at the time these representations were made and when Plaintiff
13 took the actions herein alleged, was ignorant of the falsity of Defendants'
14 representations and believed them to be true.

15 56. Plaintiff reasonably relied on these representations by signing the
16 Estoppel Certificate, whereby Plaintiff gave up its claim that the construction price
17 had been fixed in December 2020, agreed to pay Plaintiff the additional costs of
18 construction in the attached budget, and released, gave up or waived material rights
19 and causes of action.

20 57. Had Plaintiff known the actual facts, Plaintiff would not have signed
21 the Estoppel Certificate and given up such rights or agreed to such payments.
22 Plaintiff's reliance on Defendants' representations was justified.

23 58. As a direct and proximate result of Defendants' intentional fraud, the
24 Estoppel Certificate is null and void.

25 59. As a direct and proximate result of Defendants' intentional fraud,
26 Plaintiff has been damaged in an amount according to proof within the jurisdiction
27 of this Court, including the damages set forth above.
28

1 65. Defendants made these promises with the intent to deceive Plaintiff and
2 with the intent to induce Plaintiff to rely on them by signing the Estoppel Certificate
3 and making the concessions and payments required therein.

4 66. At the time these promises were made, Plaintiff did not know that they
5 were false or that Defendants had no intention of performing them.

6 67. Plaintiff reasonably relied on these promises by signing the Estoppel
7 Certificate, whereby Plaintiff gave up its claim that the construction price was fixed
8 as represented, agreed to pay Plaintiff the additional costs of construction in the
9 attached budget, and released, gave up or waived material rights and causes of
10 action.

11 68. Had Plaintiff known that Defendants could not keep and did not intend
12 to perform their promises to Plaintiff, Plaintiff would not have taken such action.
13 Plaintiff's reliance on Defendants' promises was justified.

14 69. Defendants failed to perform their promises to Plaintiff.

15 70. As a direct and proximate result of Defendants' promissory fraud, the
16 Estoppel Certificate is null and void.

17 71. As a direct and proximate result of Defendants' promissory fraud,
18 Plaintiff has been damaged in an amount according to proof within the jurisdiction
19 of this Court, including the damages set forth above.

20 72. Defendants' conduct was willful, intentional and in reckless disregard
21 of Plaintiff's rights, designed to deprive Plaintiff of its money, property and legal
22 rights and otherwise cause injury, and was despicable conduct so as to justify an
23 award of exemplary and punitive damages.

24 **THIRD CAUSE OF ACTION**
25 **(Fraudulent Concealment)**

26 73. Plaintiff incorporates the allegations contained in paragraphs 1
27 through 72 above, as though fully set forth herein.
28

1 74. In negotiating the Estoppel Certificate and inducing Plaintiff to sign
2 that document, IRONGATE, Waller and Laufer concealed and suppressed material
3 facts from Plaintiff, including but not limited to: (a) the numbers included within the
4 construction budget attached to the Estoppel Certificate were wrong, as Defendants
5 used outdated or invalid bids from 2020-2021 rather than true and accurate numbers
6 from 2022 bids; and (2) IRONGATE lacked sufficient materials, labor and resources
7 to complete construction of Plaintiff's home by the end of 2022.

8 75. Defendants had had superior knowledge of these facts, and Plaintiff
9 could not reasonably have discovered these facts on its own without full disclosure.
10 Thus, Defendants had a duty to disclose the true facts to Plaintiff.

11 76. Those facts were material to Plaintiff's decision to sign the Estoppel
12 Certificate and make the concessions therein.

13 77. Defendants concealed or suppressed this information from Plaintiff
14 with the intent to defraud and deceive Plaintiff and with the intent to induce Plaintiff
15 to sign the Estoppel Certificate.

16 78. When Plaintiff signed the Estoppel Certificate, Plaintiff was not aware
17 of the true facts. Plaintiff would not have signed the Estoppel Certificate and given
18 up substantial rights and agreed to additional construction payments had Plaintiff
19 known of these concealed or suppressed facts.

20 79. As a direct and proximate result of Defendants' intentional
21 concealment or suppression of material facts, the Estoppel Certificate is null and
22 void.

23 80. As a direct and proximate result of Defendants' intentional
24 concealment or suppression of material facts, Plaintiff has been damaged in an
25 amount according to proof within the jurisdiction of this Court, including the
26 damages set forth above.

27 81. Defendants' conduct was willful, intentional and in reckless disregard
28 of Plaintiff's rights, designed to deprive Plaintiff of its money, property and legal

rights and otherwise cause injury, and was despicable conduct so as to justify an award of exemplary and punitive damages.

FOURTH CAUSE OF ACTION

(Constructive Fraud/Negligent Misrepresentation)

82. Plaintiff incorporates the allegations contained in paragraphs 1 through 81 above, as though fully set forth herein.

83. Between May 2022 and July 2022, IRONGATE, through Waller and Laufer, made false representations to Plaintiff, through Mr. Raizada and Ms. McFee, as follows:.

- a. Defendants attached to the Estoppel Certificate a construction budget showing total construction costs for Plaintiff's home of \$7,217,515;
- b. Defendants represented that this construction budget stated the costs to complete construction of Plaintiff's home;
- c. Defendants represented that IRONGATE would restart construction immediately and take appropriate measures to protect Plaintiff's property from damage once the Estoppel Certificate was signed; and
- d. Defendants represented that construction of Plaintiff's home would be completed by the end of 2022.

84. Those representations were material to Plaintiff's decision to sign the Estoppel Certificate, to agree that the construction price was not fixed as represented, to agree to pay Plaintiff additional costs of construction, and to forgo, release or waive material rights and causes of action.

85. Those representations were false.

86. When Defendants made these representations they had no reasonable basis for believing that they were true.

///

///

87. Defendants made the representations with the intent to induce Plaintiff to rely on them by signing the Estoppel Certificate and giving up rights and making the concessions and additional payments required therein.

88. Plaintiff was ignorant of the falsity of Defendants' representations and believed them to be true.

89. Plaintiff reasonably relied on these representations by signing the Estoppel Certificate, whereby Plaintiff gave up its claim that the construction price was fixed as represented, agreed to pay Plaintiff the additional costs of construction in the attached budget, and released, gave up or waived material rights and causes of action.

90. Had Plaintiff known the true facts, Plaintiff would not have taken such action. Plaintiff's reliance on Defendants' representations was justified.

91. As a direct and proximate result of Defendants' constructive fraud and negligent misrepresentation, the Estoppel Certificate is null and void.

92. As a direct and proximate result of Defendants' constructive fraud and negligent misrepresentation, Plaintiff has been damaged in an amount according to proof within the jurisdiction of this Court, including the damages set forth above.

FIFTH CAUSE OF ACTION

(Extortion)

93. Plaintiff hereby incorporates the allegations in paragraphs 1 through 92 above, as though fully set forth herein.

94. IRONGATE, Waller and Laufer obtained valuable assets, property and rights from Plaintiff in the Estoppel Certificate, which was induced by the wrongful use of force, fear, or threats to allow or cause damage Plaintiff's property.

95. In or about July, 2022, knowing that Plaintiff had already spent millions of dollars to purchase the Lot and for construction of a home that was only partially constructed, Defendants forced Plaintiff to sign the Estoppel Certificate

1 under duress and threat. Specifically, Defendants threatened not to complete
2 construction of Plaintiff's home and to leave the unfinished shell and valuable
3 materials that Plaintiff had already paid for unprotected from the elements and
4 subject to deterioration and decline unless Plaintiff gave up and/or agreed to give
5 Defendants additional monies, property or rights to which Defendants were not
6 entitled, including:

- 7 a. Defendants forced Plaintiff to give up any claim or right to claim that
8 the construction costs had been fixed as represented;
- 9 b. Defendants forced Plaintiff to obligate itself to pay approximately
10 \$7.3 million in construction costs, which Defendants knowingly
11 fraudulently represented it would take to complete construction of the
12 home;
- 13 c. Defendants forced Plaintiff to release all RICO claims against
14 IRONGATE or its affiliates; and
- 15 d. Defendants forced Plaintiff to give up or waive any rights Plaintiff
16 had to sue IRONGATE or its affiliates in the United States.

17 96. Defendants' refusal to perform work on Plaintiff's home and/or take
18 appropriate measures to protect Plaintiff's home and the materials therein from
19 deterioration or damage have caused and would continue to cause the value of
20 Plaintiff's property to seriously diminish or depreciate. Plaintiff, therefore, was
21 forced to sign the Estoppel Certificate to protect its property from damage or harm.

22 97. Defendants thereby obtained monies and valuable assets and rights by
23 threat and duress.

24 98. At the time that Defendants made their demands that Plaintiff sign the
25 Estoppel Certificate Defendants knew that their extortive demands and the
26 representations made in and surrounding the Estoppel Certificate were false and that
27 their threats to stop construction of Plaintiff's home and allow Plaintiff's property to
28 decline and diminish were wrongful.

- 1 which is the benefit of Plaintiff's bargain;
- 2 b. More than \$110,000 in HOA fees Plaintiff has paid for a home that is
- 3 nowhere near completion and which has never been used;
- 4 c. More than \$75,000 in continuing storage fees for furniture, fixtures, and
- 5 other items that have been ordered and delivered, but that cannot be
- 6 installed because construction was not completed by the end of 2022;
- 7 d. Damaged caused to Plaintiff's home and materials therein and/or to
- 8 Plaintiff's property by virtue of Defendants' wrongful conduct and
- 9 refusal to work on Plaintiff's home or take appropriate measures to
- 10 protect the property from harm, among other damages.
- 11 2. Punitive damages as to claims for which they are available under applicable
- 12 law in such amount as the Court deems just and proper;
- 13 3. A declaration of equitable relief, including rescission, restitution, and an
- 14 order for disgorgement of ill-gotten monies in such amount as the Court deems just
- 15 and proper;
- 16 4. Costs of suit;
- 17 5. Attorneys' fees as allowed by law;
- 18 6. Prejudgment interest to the extent permitted by law; and
- 19 7. Such other and further relief as the Court deems equitable and just.
- 20
- 21
- 22
- 23
- 24
- 25
- 26 ///
- 27 ///
- 28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury.

Dated: January 17, 2023

VENABLE LLP

By: /s/: DAVID E. FINK
DAVID E. FINK
MICHAEL D. JOBLOVE (*pro hac*
vice forthcoming)
BRETT M. HALSEY (*pro hac*
vice forthcoming)
Attorneys for Plaintiff
TRG CP, LLC